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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 Kini M. Seawright, ) **Case # CV 11-01304-PHX-JAT**  
11 Plaintiff, )  
12 vs. ) **PLAINTIFF'S POST-ORAL**  
13 State of Arizona, *et al.*, ) **ARGUMENT CORRECTIVE**  
14 Defendants. ) **MEMORANDUM**  
15 )

16 Plaintiffs Kini Seawright and the Estate of Dana Seawright (hereinafter referred to  
17 collectively as "Plaintiff"), respectfully files this brief memorandum to assure that the  
18 oral arguments are accurately understood.

19 After the oral arguments on August 27, 2013 Learned Counsel for Defendants  
20 approached Plaintiff's Counsel and expressed concern that Plaintiffs' counsel had stated  
21 that Defendants "knew" certain facts regarding the issues being argued when Defendants  
22 had denied such knowledge. This Memorandum is filed in an attempt to correct any  
23 misunderstanding and to express the intent of Plaintiff's argument.

24 Plaintiff's Counsel cited authorities from the United States Supreme Court,  
25 including the following quotation from *Farmer v. Brennan*, 511 U.S. 825, 114 S. Ct.  
26 1970, 128 L. Ed. 2d 811 (1994):  
27

1 “Whether a prison official had the requisite knowledge of a substantial risk is a  
2 question of fact subject to demonstration in the usual ways, including inference  
3 from circumstantial evidence...and a fact finder may conclude that a prison  
official knew of a substantial risk from the very fact that the risk was obvious.”  
(Emphasis supplied )(Farmer at \*842).

4 Plaintiff’s Counsel also referred to a comment by a former Judge regarding  
5 attempted disclaimers by the piano player at a bordello. It was within the context of the  
6 statements by the Supreme Court in *Farmer* and the anecdotal piano player story that  
7 Plaintiffs’ Counsel intended his referral of “notice” or “knowing” by individual  
8 defendants was intended to be understood.

9 Undersigned Counsel apologizes to the Court and Counsel for any  
10 misunderstanding resulting from the oral arguments.

11 Respectfully submitted this 28th day of August, 2013.

12 **GILLESPIE, SHIELDS & DURRANT**

13 /s/Dan M. Durrant  
14 Dan M. Durrant  
Attorneys for Plaintiff

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16 **CERTIFICATE OF FILING**

17 I hereby certify that, on August 28, 2013, I electronically transmitted the attached  
18 document to the U.S. District Court’s Clerk office using the CM/ECF system for filing  
and transmittal of a Notice of Electronic Filing to attorneys of record on file for this case.

19 /s/ Linda S. Dittmore  
20 Linda S. Dittmore